



5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the factual averments in Paragraph 5 of the Notice of Opposition; the allegations regarding the law do not constitute averments of fact and thus do not require a response but, in the event they do, then Denied.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the factual averments in Paragraph 6 of the Notice of Opposition; the allegations regarding the law do not constitute averments of fact and thus do not require a response but, in the event they do, then Denied.

7. Denied.

8. Denied.

9. Denied.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 10 of the Notice of Opposition.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 11 of the Notice of Opposition.

12. Denied.

13. Denied.

14. Applicant is not required to answer to the legal implications of the issuance of a registration; otherwise denied.

15. Denied.

16. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 16 of the Notice of Opposition.

17. Denied.

18. Denied.

#### FIRST AFFIRMATIVE DEFENSE

Applicant denies that there is any likelihood of confusion with respect to its mark and goods as set forth in the application.

#### SECOND AFFIRMATIVE DEFENSE

Applicant actually uses its mark only on a specific type of the goods covered by the broad identification in its application, namely, in connection with only "first aid kits for domestic or other non-professional use"; that there is no likelihood of confusion with respect to applicant's actual goods; and that even if the Board ultimately finds that Opposer is entitled to judgment with respect to Applicant's goods as broadly identified, applicant would be entitled to a registration of its mark with a restricted identification reflecting the actual nature of its goods.

#### THIRD AFFIRMATIVE DEFENSE

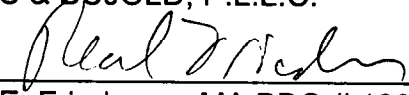
Opposer is guilty of unclean hands by intentionally using the statutory notice in connection with the alleged marks EZY-CARE and EZY INFANT CARE for goods and/or services that are not the subject of any registration.

#### FOURTH AFFIRMATIVE DEFENSE

Opposer has committed a fraud on the public by misusing the statutory notice in connection with the alleged marks EZY-CARE and EZY INFANT CARE for goods and/or services that are not the subject of any registration.

WHEREFOR, Applicant asks that the Notice of Opposition be decided in Applicant's favor and that the mark be allowed to register.

DAVIS & BUJOLD, P.L.L.C.

By:   
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#### **CERTIFICATE OF SERVICE**

I, Neal E. Friedman, certify that a copy of the foregoing has been mailed this 28th day of January, 2005 to Anna W. Manville, counsel of record.



#### **CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as First Class Mail in an envelope addressed to: UNITED STATES PATENT AND TRADEMARK OFFICE, Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313-1451 on January 28, 2005.

By:   
Print Name: Neal E. Friedman